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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 19, 2001

PETITION OF

A & N Electric Cooperative,
BARC Electric Cooperative,
Community Electric Cooperative,
Craig-Botetourt Electric Cooperative,
Mecklenburg Electric Cooperative,
Northern Neck Electric Cooperative, Inc.,
Northern Virginia Electric Cooperative,
Powell Valley Electric Cooperative,
Prince George Electric Cooperative,
Rappahannock Electric Cooperative,
Shenandoah Valley Electric Cooperative,
Southside Electric Cooperative,
Old Dominion Electric Cooperative, and
the Virginia, Maryland and Delaware
Association of Electric Cooperatives

CASE NO. PUE000231

For a Declaratory Judgment

ORDER GRANTING MOTION TO WITHDRAW

On April 22, 2000, A & N Electric Cooperative, BARC
Electric Cooperative, Community Electric Cooperative, Craig-
Botetourt Electric Cooperative, Mecklenburg Electric
Cooperative, Northern Neck Electric Cooperative, Inc., Northern
Virginia Electric Cooperative, Powell Valley Electric
Cooperative, Prince George Electric Cooperative, Rappahannock
Electric Cooperative, Shenandoah Valley Electric Cooperative,
Southside Electric Cooperative, Old Dominion Electric
Cooperative, and the Virginia, Maryland and Delaware Association
of Electric Cooperatives (hereafter collectively referred to as

"the Cooperatives")¹ filed a Petition for Declaratory Judgment ("Petition") with the State Corporation Commission ("Commission"). This Petition requested that the Commission declare that entities acquiring and operating electric systems located on military bases in Virginia that are being "privatized" under federal Defense Reform Initiatives would not be subject to the Commission's jurisdiction under the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 et seq.) of Title 56 of the Code of Virginia. In the alternative, the Cooperatives requested that the Commission adopt alternative regulations or otherwise interpret the Utility Facilities Act in a way that would allow all public service companies to participate in any competitive solicitation process conducted by the military.

On May 23, 2000, the Commission docketed the Petition, invited interested persons to file, by July 17, 2000, a response to or request for hearing on the Petition, directed its Staff to file a response to the Petition and any other responses thereto, and permitted the Cooperatives or any interested party to file replies to the responses and requests for hearing filed herein.

On July 17, 2000, Virginia Electric and Power Company ("Virginia Power") filed a response, Motion to Dismiss, and an alternative request for hearing in this matter. The Potomac

¹ The Commission granted the Cooperatives' request to permit Southside to withdraw from this proceeding. See Petition of A & N Electric Cooperative, et als., For a Declaratory Judgment, Case No. PUE000231, Doc. Con. Ctr. No. 000810157 (Aug. 4, 2000 Order Permitting Withdrawal of Party).

Edison Company d/b/a Allegheny Power and Columbia Gas of Virginia, Inc. ("Columbia") also filed responses to the Petition on July 17, 2000. On July 28, 2000, the Staff filed its response to the Petition.

On August 18, 2000, Columbia and the Cooperatives each filed reply comments in the matter.

On March 6, 2001, the Cooperatives, by counsel, filed a Motion requesting leave to withdraw their Petition. In support of their Motion, the Cooperative alleged that since their Petition was filed, the United States Congress passed and the President signed H. R. 4205, the National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654 (10 U.S.C.S. § 2688(b)) ("the Authorization Act"). According to the Cooperatives, this legislation amended 10 U.S.C.S. § 2688 to clarify that all interested entities, including regulated and unregulated utility companies and other entities, would receive an opportunity to acquire and operate utility systems on military facilities through the competitive bidding process.² The Cooperatives state that they believe the amended legislation

² Section 2813(a)(3) of the Authorization Act provides in pertinent part:

. . . the Secretary concerned shall ensure that the process is conducted in a manner consistent with the laws and regulations of the State in which the utility system is located to the extent necessary to ensure that all interested regulated and unregulated utility companies and other interested entities receive an opportunity to acquire and operate the utility system to be conveyed.

supports the position that they or others may operate utility facilities on federal bases if they make the most competitive offer in the competitive bidding process. The Cooperatives, therefore, assert that the Authorization Act alleviates the need for a declaratory order by the Commission.

NOW, UPON CONSIDERATION of the Cooperatives' Motion, the Commission is of the opinion and finds that the Cooperatives should be permitted to withdraw their Petition without prejudice, and that this case should be dismissed from the Commission's docket of active proceedings. In dismissing this proceeding, we make no finding regarding the merits of the Cooperatives' Petition or the effect of the Authorization Act on the Commission's jurisdiction.

Accordingly, IT IS ORDERED THAT:

(1) The Cooperatives' March 6, 2001 Motion to withdraw its Petition is granted.

(2) This matter is hereby dismissed without prejudice from the Commission's docket of active proceedings, and the papers filed herein shall be made a part of the Commission's files for ended causes.